

PRODUCT: 23 boxes, each containing 20 pounds, of frozen shrimp at Baltimore, Md.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

DISPOSITION: July 7, 1942. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8919. Misbranding of crab meat. U. S. v. 78 Cans of Crab Meat. Default decree of condemnation and destruction. (F. D. C. No. 15725. Sample No. 5813-H.)

LIBEL FILED: March 20, 1945, Southern District of New York.

ALLEGED SHIPMENT: On or about February 27, 1945, by J. H. Fleming & Co., Portsmouth, Va.

PRODUCT: 78 1-pound cans of crab meat at New York, N. Y.

LABEL, IN PART: (Cans) "DeLuxe Crab Meat"; (portion also labeled) "Packed For Lucien Prince & Co. Fulton Mkt. N. Y. C., N. Y."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the product was food in package form, and it failed to bear a label containing an accurate statement of the quantity of the contents since the cans contained less than "1 Lb. Net," the declared volume.

DISPOSITION: April 6, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

FRUITS AND VEGETABLES *

DRIED FRUIT

8920. Adulteration of apple chops. U. S. v. 1,240 Sacks of Apple Chops. Tried to the court and jury. Verdict for claimant. Judgment ordering dismissal of libel reversed on appeal, and case remanded by appellate court for entry of decree of destruction. (F. D. C. No. 11744. Sample No. 39651-F.)

LIBEL FILED: February 3, 1944, Southern District of California.

ALLEGED SHIPMENT: On or about December 9, 1943, by Jack Gomperts and Co., from Cashmere, Wash.

PRODUCT: 1,240 50-pound sacks of apple chops at Los Angeles, Calif. Analysis showed that the product contained an average of 0.327 grain of arsenic (as As_2O_3) per pound and an average of 0.560 grain of lead per pound.

NATURE OF CHARGE: Adulteration, Section 402 (a) (1), the article contained added poisonous and deleterious substances, arsenic and lead, which may have rendered it injurious to health.

DISPOSITION: The Washington Dehydrated Food Co., Yakima, Wash., claimant, having denied that the product was adulterated, the case came on for trial before a jury on May 11, 1944, at the conclusion of which the court gave the following instructions to the jury:

BEAUMONT, *District Judge*: "Gentlemen of the Jury: It becomes my duty as Judge to instruct you in the law that applies to this case, and it is your duty, as jurors, to follow the law as the Court gives it to you. On the other hand, it is your exclusive province to determine the facts in the case, and to consider the evidence for that purpose.

"If the Judge has said or done anything which has suggested to you that he is inclined to favor the claims or position of either party, you will not suffer yourselves to be influenced by any such suggestion.

"I have not expressed, nor intended to express, nor have I intimated nor intended to intimate any opinion as to what witnesses are, or are not, worthy of credence; what facts are, or are not, established; or what inferences should be drawn from the evidence adduced. If any expression of mine has seemed to indicate an opinion relating to any of these matters, I instruct you to disregard it.

"You should carefully scrutinize the testimony given, and in so doing consider all of the circumstances under which any witness has testified, his demeanor, his manner while on the stand, his intelligence, the relations which he bears to the government, or the claimant, the manner in which he might be affected by the verdict and the extent to which he might be affected by the verdict and the extent to which he is contradicted or corroborated by

*See also Nos. 8803-8808, 8988.